

**STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION
PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY)
COVID-19 STATE OF EMERGENCY**

Temporary Rule Relaxation of certain provisions of Title 4A, New Jersey Administrative Code, adopted by New Jersey Civil Service Commission.

Date: September 2, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy) ("EO 103")

Effective Date:

Expiration Date: 30 days after the end of EO 103.

This is an emergency adoption of temporary rule relaxations and modifications of the regulatory provisions concerning flextime programs (N.J.A.C. 4A:6-2.6). Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Civil Service Commission is relaxing or modifying N.J.A.C.4A:6-2.6, which concerns flextime programs, as follows:

As a result of the Coronavirus-19 (COVID-19) pandemic, State departments and agencies have been directed to prioritize addressing immediate public needs and safety, while also restricting the physical presence of individuals in office environments and work sites. Accordingly, during the first three months of the COVID-19 emergency while the stay at home order was in effect, in order to ensure the consistent delivery of critical State services, public employees, where feasible, were required to be provided accommodations in order to work from home. In response, State departments and agencies successfully implemented various strategies to permit work from home without major disruption to the delivery of public services. However, while New Jersey's stay at home order has now been lifted and public and private businesses have begun the process of gradual reopening, it is still necessary to reopen State facilities and offices in a way that ensures public health and safety. For example, even though the stay at home order has been lifted, social distancing, wearing face coverings, and aggressive cleaning and disinfecting measures are still needed during the reopening process. As a result of the success experienced by the departments and agencies implementing the work at home order, in conjunction with the need to open State facilities and offices in a manner that will not place workers at increased risk of infection, the Commission is modifying its rules to establish a COVID-19 Temporary Telework Program.

Use of the COVID-19 Temporary Telework Program is discretionary to appointing authorities, but any telework plan developed by an appointing authority must be consistent with the STATE OF NEW JERSEY MODEL COVID-19 TEMPORARY TELEWORK GUIDELINES and implemented in accordance with the emergency rule modifications. The COVID-19 Temporary Telework Program emergency rule modifications shall be effective as of July 7, 2020 and shall expire 30 days after the expiration of EO 103.

Full text of the proposed modification follows (additions indicated in boldface **thus**);

§ 4A:6-2.8A COVID-19 Temporary Telework Program: State service

(a) Appointing authorities may establish a temporary telework program to accommodate operational and/or employee needs during the COVID-19 public health emergency and for 30 days after the end of EO 103, consistent with the STATE OF NEW JERSEY MODEL COVID-19 TEMPORARY TELEWORK GUIDELINES.

(b) An appointing authority may limit participation in a COVID-19 Temporary Telework Program to selected groups of job titles, work units and/or work locations to accommodate operational needs.

(c) Civil Service Commission assigned workweeks for affected titles of 35 or 40 hours, shall be retained.

(d) Establishment, modification, or termination of a COVID-19 Temporary Telework Program shall not become effective without the approval of the Chairperson or designee. Requests for these actions shall be submitted at least 30 days in advance of the proposed effective date to the Chairperson or designee and shall include:

- 1. Justification which relates the requested action to operational and employee needs;**
- 2. Statement of impact on services to the public or agency clientele;**
- 3. Details of the core time, flexible time and meal periods;**
- 4. Groups of job titles, work units and/or work locations to be covered by the program;**
- 5. Procedures governing employee participation in the program that are consistent with the STATE OF NEW JERSEY MODEL COVID-19 TEMPORARY TELEWORK GUIDELINES;**
- 6. Approval procedures for individual telework participation and a sample copy of the Telework Agreement;**
- 7. Provisions for giving employees ten working days' notice of termination of their participation in the program;**
- 8. Monitoring and evaluation procedures; and**

9. Name, address and telephone number of the program administrator.

(e) An appointing authority may authorize a complete or partial temporary suspension of the COVID-19 Temporary Telework Program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Chairperson or designee a fully detailed justification and specify the duration of the suspension.

(f) Appointing authorities should consult with affected negotiations representatives concerning the COVID-19 Temporary Telework Program before implementation.

(g) A description of an appointing authority's COVID-19 Temporary Telework Program and the procedures for application shall be made available to employees upon request.

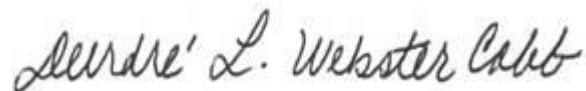
(h) Overtime compensation for employees in the COVID-19 Temporary Telework Program shall be regulated in the same manner as for all other employees.

Due to the unprecedented pervasiveness and difficulty in providing critical services for which the State is responsible, the Commission has determined that the above noted rule should be modified.

At its meeting on September 2, 2020, the Commission found that modification of the above rules is necessary, absence of such a provision would be detrimental to the public welfare during this emergency.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON SEPTEMBER 2, 2020

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission



SEPTEMBER 2, 2020

Date

Deirdré L. Webster Cobb, Esq.
Chair/Chief Executive Officer